

**CITY OF EVART  
REGULAR COUNCIL MEETING**

February 3, 2014

Meeting called to order at 7:00 p.m.

Present: **Mayor** - Eric Schmidt; **Council** - Dan Elliott, BJ Foster, Casey Keysor, Gregg Sherman; **City Clerk** – Seraphim Leemon; **City Manager** – Zack Szakacs  
**Treasurer** Sarah Bigelow (Maternity Leave)

Guests: Melora Theunick – Director LDFA, Jonathon Hartoon, Patrick Muczynski, John Joyce, Jennifer Joyce, Ryan Douglas, Jim White – City Attorney, Roger Elkins, Bud Vallad – Director DPW, Miranda Lorenz, Dan Joyce, James Holihan

**Citizenry Comments:**

<< Roger Elkins>> Announces Osceola County Commission has a six month experiment of moving 3<sup>rd</sup> Tuesday-of-the-month meetings to 4:00 p.m. (vs. 6:00), while preserving both the 1<sup>st</sup> Tuesday-of-the-month 9:00 a.m. Committee of the Whole meeting schedule, and 11:00 o'clock regular meeting. Commends the Evert DPW (Department of Public Works) for stellar effort through the difficult winter conditions. Thanks City Council for the decision to preserve the DDA; hopes the same consideration will be extended to LDFA, adding that as an LDFA board member he'd consider dissolution to be a "slap in the face".

<< Buck Vallad>> Introduces new DPW intern, Baker College student Jonathan Hartoon, who has a personal interest in city politics; Hartoon is enroute to A.A. degree in accounting and computer communication systems, to be followed by Bachelor's in accounting.

**Moved** by Schmidt, seconded by Keysor to amend the agenda ...

...adding Elliott's request that the pay omissions affecting past Council members be addressed

**Passed** unanimously.

**Moved** by Keysor, seconded by Foster to amend the minutes of January 20, 2014 to expand Elliott's (page 3, section 11) remarks to include "because all other units of government can opt out, effectively eliminating the possibility of a new TIFA being created."

**Passed** unanimously.

**The LDFA - Director Melora Theunick reporting**

Reports that she has turned in all requested documents (nine page handout – Tax Increment Plan 1990-2013). Next LDFA meeting is this forthcoming Wednesday morning.

**The DDA – Director Al Weinberg not in attendance**

Mayor asked City Manager if there was anything DDA related. Szakacs reported there hasn't been a meeting, next is scheduled for the 12<sup>th</sup>.

Unfinished Business:

- **LDFA / DDA Future Budgetary Concerns**

1) Mayor asks if there are any questions pertaining to LDFA Tax Increment Plan document or if City Manager has any additional points. Szakacs notes that LDFA produced its own resolution, but his concerns had centered on the public hearing – which it turns out was correctly addressed in 1990. Has included in this evening's packet Council minutes from 1993 reflecting the extension (30 year plan) approval, as well as Council minutes from 2003 that reflect budgetary concerns similar to Szakac's... what sticks out in his estimation, is that in the "Purpose of LDFA Act" which lists goals, Szakacs has been able to highlight/note "done" or "no longer needed" with most items, reinforcing his sense that its purpose *has* been achieved and dissolution is a viable Council choice.

2) Asserts that they have never aided Police or Fire safety investments and that the other line items are wishful visions instead of realistic LDFA-appropriate tasks. Quotes then LDFA Director, now Councilmember Elliott, whom at the time clarified that the Evert Development Corporation and not the LDFA was responsible for luring business occupants to the Industrial Park.

3) City Manager is confident that his task of "fact finding" on Council's behalf is complete. States he will be in support of whichever way they vote. Foster seeks clarification that the "done" notations on the 30 year goal list are Szakac's own; "yes".

4) Szakacs explores the previous Council (with BJ Foster, then serving) decision to dissolve the Evert Development Corporation, recalling that it originated with chairman Bill Britz's 2010 decision to step down and Britz's recommendation to dissolve the entity in light of its extended lack of activity.

5) Adds that his sources in Lansing suggest that unlike Elliott's expectation that the State will replace TIFAs, police and fire would be helped, not fully floated, but that TIFAs and cities would be on their own and "held accountable" for their own financial situations.

6) Mayor observes that the Budget Meeting of earlier this evening not once considered dissolution, despite all participants attempting to find creative means of making ends meet. Therefore, Schmidt reveals that in his opinion it would be a drastic step to undertake dissolution at this juncture. Calls upon Council to either vote or postpone for fact-digestion.

7) Szakacs reminds the body it is 1987/90 dollars at stake, with the City currently prevented from capturing 2014 dollars.

8) Elliott clarifies that as to the Evert Industrial Development Corporation's responsibility for attracting industrial park occupants, there is a muddied paper-trail-past for which City documents were non-existent more than likely in the wake of Jack Bruggema 's death (since he'd brought the issue to Council). The written agreement at Council made Bruggema the official Marketing Agent, which is why Elliott had to state that the LDFA was not responsible for that task. Elliott elaborates that over time, the I.D.C. didn't perform so LDFA stepped up. The agreement was that 50% of the lot sales would go to the I.D.C. fund but they failed to spend it, hence the LDFA made the economic decision to instead give those monies to the City (creating an Economic Development Fund) leaving it to the City to determine if the monies would/should be distributed to the I.D.C. for which there wasn't any paper trail record.

9) Secondly Elliott clarifies that in the airport project which was referenced in Szakacs' packet excerpts, the law regulates that LDFA and DDA are prohibited from areas already under direct control/responsibility of the City, which that singular project had been.

10) Szakacs points out that at the time of the thirty year extension, the question had been posed as to when the LDFA's term would expire, the answer being: "When the bonds are paid off." Debate ensues as to the interpretation of the verbiage, with it being agreed that it reads "can be dissolved when bonds are paid" versus "shall be dissolved".

11) Sherman introduces a new question, directed to Elliott, if, having self-identified himself as a consultant to the LDFA, he receives a wage for services rendered. Elliott firmly announces that not only does he refuse payment (from LDFA, the City, DDA), he also foregoes any opportunity to be retained for a private project by a competing civic interest to Evert, or her DDA or LDFA. Foster inquires if Elliott sees a conflict of interest in participating in Council dissolution votes. “No”. Clarifying with interaction with Theunick that some of this “consulting” rests in “who do you call” and/or paperwork for advice or advancement of projects, two to three times over the past year. He is not involved in deals. Szakacs asks City Attorney if Elliott can vote, especially if he is privy to inside information. White sees no need to recuse. Audience member Jim Holihan offers that a conflict of interest definition would require Elliott to “gain” from the potential conflict, something which in this scenario clearly does not exist. Elliott goes on to clarify that he is keenly aware of the grey zones and even as LDFA Director in the interest of “extreme propriety” when asked to assist Big Rapids, he made certain that even though he consulted “after hours”, he still credited LDFA 25% of his pay.

12) Mayor asks if there is anything further. Keysor notes that there is a great deal in front of them. Foster requests time to digest the arguments from both sides. Keysor asks Theunick if she has anything to add, perhaps related to potential building regulations that could be relaxed in order to attract occupants, if similar civic entities have been reviewed for clues to success – such as Clare, which has been wildly successful.

13) Theunick has spoken with Clare which benefits greatly from an “overflow demand” from Mt. Pleasant (where taxes are less attractive than Clare’s); MEDC thinks Evert could re-zone or re-map the Industrial Park (emphasis of 2000 feet on US 10 “commercial” versus “industrial” for the remainder).

14) Keysor wonders how we move forward; City’s “master plan” (zoning and big picture view of “who we are, where are we going”) having been on the table for the last 1 ½ years ... asks what sort of input could the Council garner from LDFA. Theunick says she’d need to think it through, not having been asked previously; thinks it would be a solid benefit to have economic development in the project, noting that sooner or later since the property is there, this is the only area into which Evert can grow.

- **Appointments to Boards and Commissions**

Mayor reviews those interested in LDFA position. LDFA will have two seats to fill. Bob Foster- expressed his interest to City Manager, Director Theunick puts forth : Dena Lauman (First Merit bank), and Brad Morgan (Morgan’s Composting – Dairy Doo), noting that there were a couple additional candidates whom she was unable to contact in advance of tonight’s meeting. Theunick offers Council the option to only address the Swales resignation which is in-hand, while Dave Rayburn’s is still forthcoming. City Manager explores the opening(s) and candidates. Foster questions why residents are not more heavily represented in current board and in candidate list; Elliott offers himself as additional candidate if that would smooth the objections; Foster rejects that idea outright. Jim White, speaking as a business owner vs. City Attorney, suggests that most Evert business owners live outside of the city limits and therefore find LDFA and DDA participation as one of the few voices available to them pertaining to City issues. Theunick joins White in pointing out that skills sets and expertise which well serve the LDFA and Evert by extension, are often found in a wider geographic search. City Manager suggests that there is an “apples/oranges disconnect” in saying non-resident-business-owners need input since those individuals by choice selected downtown venues instead of township addresses. Theunick revisits newspaper article she wrote bemoaning the lack of participation in boards

and commissions, after which a relative flood of candidates surfaced; she suggests that if it is the Council's pleasure, a similar new outreach could be fostered. Mayor attempts to summarize the decision at hand, noting that Sears resident Morgan actively attempts to "shop locally" and supports Evert projects, that Foster had been a recent outspoken advocate for LDFA's dissolution and that that seems like a disconnect. Sherman offers idea of candidates being interviewed by Council and revisits the unique situation of Council having power of appointment and entity dissolution, while having zero say on day to day or long term actions of the LDFA. **Moved** by Schmidt, seconded by Elliott to replace Mike Swales with Brad Morgan, waiting for second letter of resignation to determine next candidate.

**Passed** unanimously.

- **2014/15 Budget**

City Manager at next Council meeting will call for scheduling of the second budget meeting.

New Business:

- **Request for Council Action – New Water Truck**

DPW Director has sites on used vehicle which can be re-purposed, instead of the previously budgeted \$40,000. Is model year 2000, 55,000 miles, diesel – current bid is \$7,600 and he seeks permission to bid up to \$10,000 with an additional \$5,000 to repair/convert. Notes current truck limps at top speeds of 12 to 15mph. Mayor questions why city of Novi is selling. Vallad and Szakacs suggest that they are moneyed and able to turn over equipment early. Mayor seeks reassurance that DPW would physically inspect the vehicle and not rely on on-line descriptions. **Moved** by Foster, seconded by Sherman to authorize \$15,000 for potential acquisition of described vehicle. Discussion turned to what is to be done with existing water truck, "sell". **Passed** unanimously.

- **City Owned Properties – City Manager reviews**

City Manager will postpone this discussion in order to present a list of Evert's empty lots in order to publish the land for sale. Cites recent example of sale to Randy Berger recouping dollars which City had invested while gaining a future taxpayer who is likely to develop the empty lot. Mayor inquired as to how many there are, Szakacs believes eight to nine.

- **Well #10 Equipment – Buck Vallad reporting**

VFD (variable frequency drive) was previously purchased for that building but River City Bottling cannot utilize it, so the DPW would like to hire a tech to relocate this to other wells so as not to let the equipment investment go to waste. Plumber required for approximately \$2,867 + permit expense of no more than \$100. Northern Plumbing and Well is our current "go to guys". By comparison the VFD put on well #8 was \$8,000, this is a smaller unit so estimated value \$4-\$8,000. Mayor questions warrantees; VFD being electronic, none apply. Vallad says this would be part of the budgeted Well Improvement \$75,000 and will extend the life of the motors. **Moved** by Keysor, seconded by Sherman to authorize Vallad relocate the #10 VFD. **Passed** unanimously.

- **Review of Council Pay Omissions – Councilman Dan Elliott**

1) Elliott revisits January 20, 2014 Council meeting discovery that had revealed that in eras past, Ann Pattee as City Clerk had inaccurately tabulated the annual individual maximum (correctly should have been: \$1200/annually by way of any combination of Regular and Special Council Meeting attendance @ rate of \$50 per meeting). Points out he is not personally affected but feels action should be taken to compensate those between 2007 (year of the Pay Commission's new policy) and 2013 that were under paid. Mayor details that the error came about by only compensating members for Regular meetings.

2) Szakacs reports he is in the midst of compiling just such a list, offering some sample figures: BJ Foster - \$250, Mayor Schmidt - \$700, with dollars due to Duey, Keysor, etcetera. A report will soon be forthcoming.

3) An audience member reminds all that they are public servants.

4) In good humored exchange, Council and City Manager emphasize their goal to have complete documentation and therefore transparency in determining the specific dollars involved for each present and past Councilmember.

- **Treasurer - Sarah Bigelow, Leave of Absence – City Manager reporting**

Submission of Manual Check Report January 22 through January 30, 2014; Revenue/Expenditure Report 7/1/2013 through 1/31/14; and Vendor List.

**Moved** by Foster, seconded by Sherman to accept Vendor List as submitted  
**Passed** unanimously

- **City Manager – Zack Szakacs reporting**

1) Shared correspondence with City Assessor's office in which the Council request to join tonight's meeting could not be calendared but Brian Cushman had agreed to Vicki's participation at the February 17<sup>th</sup> Council session. Szakacs is trying to connect with Becky Martin for access. Attached language of Michigan House Bills #5172 and #5173 regarding building access.

2) At the February 17<sup>th</sup> Council Meeting, results of the water bill's Citywide Survey will be presented.

3) At the Water and Sewer Committee meeting, the Mayor substituted for Councilman Foster, Councilman Keysor attended, as did the DPW Director and OHM. In the audience was Nestle's Ice Mountain Water's Arlene Vincent. The agenda focused on rate changes. Barely more than a day after that meeting, Szakacs and Vallad received formal emails from Vincent informing the City that rates and REU-usage thresholds discussed "were not applicable" and are strictly prohibited from affecting Nestle as protected by their water contract with Ewart. This same email requested a meeting last Tuesday, Szakacs postponed for February 11, 10:00 a.m.. OHM suggests that the contract favors us. Szakacs will be consulting with the City Attorney and other legal resources. He added that he was deeply shocked that the amicable relationship heretofore could turn so quickly and unexpectedly "legalistic" and demanding. Consensus suggested that Ice Mountain's actions indicated less that they were entitled to their position, and more so that they were puffing-up in order to try and avoid incurring unplanned for expenses. Szakacs bemoans the fact that the contract mandates that we pay all electrical, significantly disadvantaging the City coffers. Foster thinks that is a small price to pay in consideration of the fact that no other company in town has "given back" as much as has Nestle. Szakacs

cautions that careful research reveals that they have “been great” to every community they move into, ultimately “preying as a pattern” on rural communities under the guise of “being great”. He added that that does not mean they aren’t “good customers”, rather that it is an important perspective. Elliott shares that they did an amicable outreach to him, his interpretation is that Nestle Corporation is bureaucratic by nature, and any effect impacting a written contract, internally prevents their departments from readily processing payments and therein is viewed as a major complication. He recommends that simply sitting down and talking it through will assuage their fears.

- **City Attorney – Jim White reporting**

Suggests there is nothing to report, just increased police action (DUI’s).

- **Department of Public Works – Director Vallad reporting**

The winter freeze “Run Water Order” will probably stand through March. Wants direction from Council on how to address the distress of citizens, noting that clearly, legally, City Hall is not responsible for aiding in the situation of frozen pipes (since the street main remains fluid and Evert is only liable for the curbside to the main), but he also recognizes the extreme homeowner distress and expense when pipes freeze – which has been happening with significant frequency this winter. City Attorney cites his own Reed City experience of the previous week of attempting a dozen phone calls to plumbers, receiving only one reply with quotes of \$150/1<sup>st</sup> hour plus \$100 for each subsequent. City Manager says City Hall will be giving citizens a yet-to-be-determined account credit toward water bills. City Clerk points out a recent broadcast TV news-crawl failed to include Evert in the “Run Water Communities” list; Vallad was aware of this, the station explaining it was an unintended omission. Facebook has carried the warning continuously. Vallad proposes a possible “phone tree” reminding citizens; recognizes that many will be going without water because they are unable to find a plumber yet alone afford one. Additionally he points out Evert would be better off priming the Main Street line (should have been done years ago when the street project was undertaken) rather than relying on the inch-and-quarter line. Foster wonders if we have been tweeting alerts and wonders if City Hall as a gesture to affected citizens might gift a case of Ice Mountain water and phone numbers. City Clerk asks if we know the expense of printing half page reminders to residents to “Run Water” replete with flow and location instructions to be distributed to front doors “as a warm fuzzy in a cold scenario”. City Manager asks if she’d be willing to do the door-to-door leg work, “yes”. Leads to consideration of flyers into Foster’s grocery bags. No action taken.

<< Citizen comment >> He identifies himself as a City resident who genuinely appreciates City Hall’s willingness to apply “Run Water Order” credits to water bills and reemphasizes the standout performance of Evert DPW’s winter road and water efforts.

**Moved** by Schmidt, seconded by Sherman ...

... Adjournment at 8:16 p.m.

**Passed** unanimously